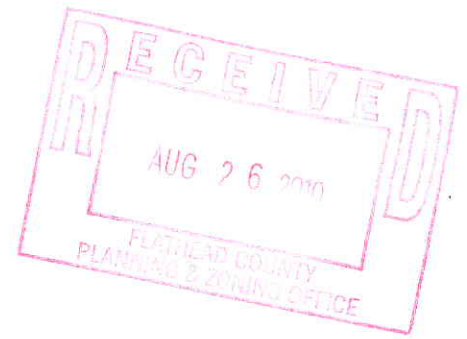




**Flathead County**  
**Planning & Zoning**  
1035 1<sup>st</sup> Ave W, Kalispell, MT 59901  
Telephone 406.751.8200 Fax 406.751.8210



**APPLICATION FOR A VARIANCE**

*Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.*

**FEE ATTACHED \$** 700 -

Before completing this application please read instructions on page 4.

1. **OWNER:**

Name: Wink, Clausen and Anderson Trust  
Address: PO Box 365 Phone: 837-4748  
City/State/Zip: Bigfork, Mt 59911  
Email: \_\_\_\_\_

**INTEREST IN PROPERTY:** Owner

2. **APPLICANT:** *(If different from above)*

Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

3. **TECHNICAL/PROFESSIONAL ASSISTANCE:** *(If applicable)*

Name: Michael Fraser, Fraser Management & Consulting, PLLC.  
Address: 690 North Meridian, Suite 103 Phone: 253-4326  
City/State/Zip: Kalispell, Mt. 59901  
Email: mfraser@montanasky.net

4. **LOCATION OF PROPERTY FOR WHICH VARIANCE IS SOUGHT:**

Physical Address: 464 Electric Avenue

5. **ZONING DISTRICT:** Bigfork **ZONING DESIGNATION:** CRV

6. **DATE PROPERTY ACQUIRED:** \_\_\_\_\_

7. **LEGAL DESCRIPTION:**

Subdivision *(if applicable)* River Street Lot/Tract(s) L5&PL7&8 BLK 3  
Assessor # 0861090 Section 36 Township 27N Range 20W

8. **REQUEST FOR A VARIANCE FROM THE PROVISIONS OF** *(State Section, Part, and Paragraph of the Zoning Regulations):* Section 3.26 of the Flathead County Zoning Regulations, part 3.26.40 , Bulk and Dimensional Requirements, para 4, Maximum Height- 35 feet.

9. **THIS IS A REQUEST FOR A VARIANCE IN RELATION TO THE PROVISIONS OF THE REGULATIONS** *(check one below):*

Area \_\_\_\_\_ Yard \_\_\_\_\_ Height <sup>X</sup> \_\_\_\_\_  
Coverage \_\_\_\_\_ Parking \_\_\_\_\_ Other \_\_\_\_\_

10. **STATE SPECIFICALLY THE CHANGE(S) PROPOSED AND THE REASON(S) SUCH CHANGE(S) ARE NECESSARY** *(use additional sheet if necessary):*

Allow a variance in the maximum height limitation for a portion of a structure. The site area is limited by steep slopes, a sewer main and the easterly lot line. Siting a multi story structure results in a height above the current ground line of over 35 feet for a short distance, 20 to 25 feet. The area is below the highest roof line which meets the height limitation.

11. **EXPLAIN HOW YOUR CASE CONFORMS TO EACH OF THE FOLLOWING REQUIREMENTS** *(be complete, use additional sheet if necessary):*

A. Strict compliance with the provisions of these regulations will limit the reasonable use of the property, and deprive the applicant of rights enjoyed by other properties similarly situated in the same district.

SEE ATTACHED RESPONSE

B. The hardship is the result of lot size, shape, topography, or other circumstance over which the applicant has no control.

SEE ATTACHED RESPONSE

C. The hardship is peculiar to the property.

SEE ATTACHED RESPONSE

AUG 26 2010

D. The hardship was not created by the applicant.

SEE ATTACHED RESPONSE

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E. The hardship is not economic (*where a reasonable or viable alternative exists*).

SEE ATTACHED RESPONSE

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F. Granting the variance will not adversely affect the neighboring properties or the public.

SEE ATTACHED RESPONSE

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G. The variance requested is the minimum variance, which will alleviate the hardship.

SEE ATTACHED RESPONSE

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H. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.

SEE ATTACHED RESPONSE

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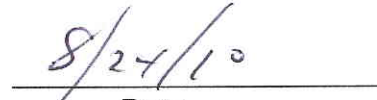
12. **ATTACH A PLOT PLAN OR DRAWING.**

AUG 26 2010



I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be incorrect or untrue, I understand that any approval based thereon may be rescinded or other appropriate action taken. The signing of this application signifies approval for FCPZ staff to be present on the property for routine monitoring and inspection during the approval and development process.

  
Owner/Applicant Signature

  
Date

#### **INSTRUCTIONS FOR VARIANCE APPLICATION**

1. **ANSWER ALL QUESTIONS.** Answers should be clear and contain all the necessary information.
2. In answering Question 7, refer to the classification system in the Zoning Regulations and explain in detail the specific standards from which the applicant is seeking relief.
3. In answering Question 9, be specific and complete. In this and all other questions, if additional space is needed you may use additional paper, and list which section number you are continuing.
4. Answer Question 10, A-H completely and fully.
5. A copy of the plot plan or site plan must be submitted with each application *(Please include 6 copies if you submit a size larger than 11x17).*
6. A **Certified** Adjoining Property Owners List must be submitted with the application *(see forms below)*. The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.
7. A fee per the FCPZ schedule of fees for a variance application must be submitted with this application to cover the cost of necessary investigation, publication, mailing and processing procedures.

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Bay Villas- Response to A thru H

- A. Strict compliance with the provisions of these regulations will limit the reasonable Use of the property, and deprive the applicant of rights enjoyed by other property similarly situated in the same district.

*The CVR zone allows a four plex. A four plex is proposed by the applicant, a use permitted in the district. Bay Landing is a four plex condominium directly north of the proposed four plex. Bay Landing does not exceed the height limitation. Bay Villas will lower than Bay Landing. Bay Villas is less than 35 feet at the street level. Granting the variance will allow a use which occurs in the CVR zone in a similar circumstance.*

- B. The hardship is the result of the lot size, shape, topography or other circumstances over which the applicant has no control.

*Lot topography provides a level area at nearly the same elevation as Electric Avenue, a steep slope dropping to another flat area with an elevation about four feet above full pool. A Sewer District main is located at the base of the slope. It appears prior owners placed fill on the slope, increasing the steepness. If the sewer main were further away from the toe additional fill could have been placed, as the case of Bay Landing. With additional fill the variance would not be needed.*

- C. The hardship is peculiar to the property.

*The tract is unique, both in location and topography. Other parcels without a sewer main and the steep slope would not have the circumstances requiring a variance.*

- D. The hardship was not created by the applicant.

*The use is permitted by the zoning. The applicant is proposing to use the lot for a use identical to the use to the north, Bay Landing. Existing site constraints are the sole reasons for the requested variance.*

- E. The hardship is not economic( where a reasonable or viable alternative exists).

*Numerous designs have been considered, for a four plex. None are viable without a minimal height separation from existing ground for a short distance. The requested variance is the least intrusive of designs considered.*

- F. Granting the variance will not adversely affect the neighboring properties or the public.

*The requested variance is for an area below the sight line of the building. It will only be visible from Bay Landing and the parcel south of Bay Villas. When viewed from the bay the roof line of the building will be the portion approximately 25 feet above the ground level, about the same elevation as Electric Avenue. The commercial structures on Electric Avenue are approximately the same elevation as the highest point of Bay Villas. Because there is no visible impact the public will not be affected by the variance.*

- G. The variance requested is the minimum variance, which will alleviate the hardship.

*The requested variance applies to a 20 to 25 foot section of the structure, a small portion. The remainder of the structure is less than the 35 foot height limitation.*

- H. Granting the variance will not confer a special privilege that is denied other similar properties in the same District.

*Many properties in the CVR are developed with two story structures and meet the height limitation. If the current ground elevations were slightly higher for a short distance, the variance would not be needed. The property north of the subject property has been developed with a similar use and the structure meets the height limitation. Granting the variance will allow the subject property to be developed.*